

Message Text

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SUBJ: MEETING ON GARRISON DIVERSION REFERENCE TEXT

1. POST AND GUDGEON MET AUGUST 19 WITH SHORTLIFFE, BRADY
AND SMITH OF EXTAFF AND ROBINSON AND JAMES OF ENV CANADA
TO DISCUSS US NON-PAPER INCORPORATING TWO PROPOSED AMENDMENTS.
THE MEETING PRODUCED REVISED AD REFERENDUM TEXT AS FOLLOWS:

(A) FIRST CLAUSE, FIRST SENTENCE, SECOND PARA: REVISE TO READ
"THE GOVERNMENT OF CANADA HAS CONCLUDED...."

(B) ADD AS FIRST SENTENCE, THIRD PARA: "THE GOVERNMENT OF THE
UNITED STATES HAS REACHED NO FINAL CONCLUSION AS TO WHETHER
THE GARRISON DIVERSION UNIT, AS PRESENTLY ENVISAGED, WOULD BE
CONSISTENT WITH THE RIGHTS OF THE UNITED STATES AND OF CANADA
TO THE EQUITABLE USE OF WATERS CROSSING THE BOUNDARY AND
WITH ARTICLE IV OF THE BOUNDARY WATERS TREATY."

(C) REVISE LAST CLAUSES OF FOURTH PARA TO READ AS FOLLOWS:
"...AND TO MAKE RECOMMENDATIONS AS TO SUCH MEASURES, INCLUD-
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ING MODIFICATIONS, ALTERATIONS OR ADJUSTMENTS TO THE GARRISON

DIVERSION UNIT, AS MIGHT BE TAKEN TO ASSIST GOVERNMENTS IN ENSURING THAT THE PROVISIONS OF ARTICLE IV OF THE BOUNDARY WATERS TREATY ARE HONORED."

2. FIRST CHANGE RESULTS FROM CONCLUSORY LANGUAGE IN NEW SENTENCE PRESENTING US VIEWS ON PROJECT. CANADIAN SIDE REITERATED FIRMLY THAT GOC DID NOT ENDORSE "NO DEGRADATION" INTERPRETATION OF ARTICLE IV, AND ACCEPTED ARGUMENT CONCERNING "AVOID ADVERSE EFFECTS" FORMULA, ALTHOUGH INDICATING THEY HAD NO PARTICULAR PROBLEM WITH KEEPING IT. PREVENT, REDUCE AND CONTROL FORMULA AS ANTICIPATED NOT APPEALING TO THEM, AND THEY SUGGESTED POSING TRADITIONAL "INJURY QUESTION" TO IJC AS ALTERNATIVE. US SIDE DISCUSSED RESERVATIONS ABOUT DIRECTING REFERENCE ON LEGAL PLANE, UTILITY OF TECHNICAL AND COMMONSENSE APPROACH TO REFERENCE, AND MENTIONED IN THIS REGARD CURRENT COMPOSITION OF COMMISSION, WHICH HAD GREAT EFFECT ON SHORT-LIFFE. HE RESPONDED WITH SUGGESTION OF DROPPING ANY REFERENCE TO ADVERSE EFFECTS OR INJURY, WHICH LED TO NEW AD REF FORMULA. WHILE ADMITTEDLY CHOPPY, NEW FORMULA DOES ELIMINATE "AVOID ADVERSE EFFECTS" PROBLEM, AND THE "TO ASSIST GOVERNMENTS" CLAUSE BOTH UNDERLINES THAT IT IS UP TO GOVERNMENTS TO INTERPRET THE TREATY AND KEEPS REQUEST FOR IJC RECOMMENDATIONS A STEP REMOVED FROM DIRECT RELATION TO ARTICLE IV AS IN OPENING CANADIAN POSITION ON JULY 28 (OUR FALLBACK POSITION).

3. WE AGREED TO REFER NEW TEXT FOR WASHINGTON COMMENT/APPROVAL, AND UNDERTOOK TO REPLY TO GOC IN NEXT FEW DAYS. TIME FACTOR OF CONSIDERABLE CONCERN TO SHORTLIFFE, WHO ALREADY PROCEEDING TO SEEK MANITOBA CONCURRENCE AND WISHES SUBMIT ASAP TO EXTAFF SECSTATE MACEACHEN. IF LATTER APPROVES, REFERENCE MUST BE SUBMITTED FOR FULL CABINET APPROVAL.
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